

专利合作条约

PCT

专利性国际初步报告
(PCT 第II章)
(PCT 36 和细则 70)

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申请人或代理人的档案号 PCT048120	关于后续行为 参见 PCT/IPEA/416 表	
国际申请号 PCT/CN2004/000205	国际申请日(日/月/年) 15. 3 月 2004 (15.03.2004)	优先权日(日/月/年) 13.3 月 2003 (13.03.2003)
国际专利分类(IPC)或者国家分类和 IPC 两种分类 IPC ⁷ A61B17/72		
申请人 钱本文		

1. 本报告是国际初步审查单位根据条约 35 做出的国际初步审查报告，并依照条约 36 将其传送给申请人。
2. 本报告共计 3 页，包括扉页。
3. ☐ 本报告还有附件，
 - a. ☐ (传送给国际局和申请人)共计 _____ 页，包含
 - ☐ 修改后的并且作为本报告基础的说明书修改页、权利要求书修改页和/或附图修改页，和/对本国际初步审查单位所做出的更正页(见 PCT 细则 70.16 和行政规程 607)。
 - ☐ 国际初步审查单位认为修改超出原始公开范围的取代页，参见第 I 栏第 4 项和补充栏。
 - b. ☐ (传送给国际局) 共计 (指明电子载体的类型和数量) _____，包含有在与序列表有关的补充栏中指定的电子形式的序列表和/或与其相关的表格。(行政规程 802)

4. 本报告包括关于下列各项的内容：

- I ☒ 报告的基础
- II ☐ 优先权
- III ☐ 不做出关于新颖性、创造性和工业实用性的意见
- IV ☐ 缺乏发明的单一性
- V ☒ 按条约 35(2)关于新颖性、创造性或工业实用性的理由；支持这种意见的引证和解释
- VI ☐ 引用的某些文件
- VII ☐ 国际申请中的某些缺陷
- VIII ☐ 对国际申请的某些意见

提交要求书的日期 10. 10 月 2004 (10.10.2004)	完成本报告的日期 11. 7 月 2005 (11.07.2005)
中华人民共和国国家知识产权局 IPEA/CN 中国北京市海淀区西土城路 6 号(100088)	授权官员 张潇
传真号：(86-10)62019451	电话号码 (86-10): 62085812



I. 报告的基础

1. 关于语言，本报告将基于：

☒ 申请提出时使用的语言。

☐ 该申请的_____语言译文，提供该种语言的译文是

☐ 为了国际检索而提交的译文所使用的语言（细则 12.3 和 23.1 (b)）。

☐ 为了国际申请的公布而提交的译文所使用的语言（细则 12.4）。

☐ 为了国际初步审查而提交的译文所使用的语言（细则 55.2 和/或 55.3）。

2. 关于国际申请中各个部分，本报告基于（申请人为答复受理局根据条约 14 所发通知而提交的替换页，在本报告中视为“原始提交”的文件，不作为本报告的附件）

☒ 原始提交的国际申请。

☐ 说明书，第_____页 原始提交的，
第_____页 初审单位收到的，
第_____页 初审单位收到的。

☐ 权利要求，第_____页，原始提交的，
第_____页，按条约 19 条修改的(附有说明)，
第_____页 初审单位收到的，
第_____页 初审单位收到的。

☐ 附图，第_____页，原始提交的。
第_____页*，初审单位收到的，
第_____页*，初审单位收到的。

☐ 序列表和/或相关表格——参见与序列表有关的补充栏。。

3. 修改导致以下内容的删除：

☐ 说明书，第_____页
☐ 权利要求，第_____项
☐ 附图，第_____页，图_____
☐ 序列表（具体说明）_____
☐ 与序列表相关的表格（具体说明）_____

4. ☐ 由于本报告附件的(某些)修改，如下所列，被认为超出了原始公开的范围，如补充栏所示，因此本报告是按照没有修改的情况做出的(细则 70.2(c))。

☐ 说明书，第_____页
☐ 权利要求，第_____项
☐ 附图，第_____页，图_____
☐ 序列表（具体说明）_____
☐ 与序列表相关的表格（具体说明）_____

*如果第 4 项适用，一些或全部的文件页可能做出“被取代”标记。

专利性国际初步报告

国际申请号

PCT/CN2004/000205

V. 按条约 35 (2)关于新颖性、创造性或工业实用性的意见；支持这种理由的引证和解释

1. 意见

新颖性(N)	权利要求 1-3	是
	权利要求	否
创造性(IS)	权利要求	是
	权利要求 1-3	否
工业实用性(IA)	权利要求 1-3	是
	权利要求	否

2. 引证和解释 (细则 70.7)

(1) 新颖性

由于检索报告所列对比文件中没有任何一篇对比文件完全公开了独立权利要求 1 所请求保护技术方案中的全部技术特征，因此权利要求 1 具备新颖性，同理其从属权利要求 2-3 也具备新颖性，符合专利合作条约 (PCT) 第 33 条第 2 款的规定。

(2) 创造性

权利要求 1-3 不具备创造性，不符合专利合作条约 (PCT) 第 33 条第 3 款的规定：

对比文件 1 (CN2253187Y) 公开了一种自动交锁加压内固定髓内钉 (参见说明书第 1-3 页，附图 1-8)，该独立权利要求 1 与对比文件 1 所公开的内容相比，区别仅仅在于：所述活动杆的设有定位件的那一端凸露于本体之外，而在对比文件 1 中，所述系紧杆 (相当于权利要求 1 中的活动杆) 的设有螺杆 (相当于权利要求 1 中的定位件) 的那一端并没有凸露在所述中空圆筒状钉体 (相当于权利要求 1 的本体) 之外。然而上述区别所带来的结构上的稍许改变是本领域技术人员不需要付出任何创造性劳动就可以完成的，而且在这种结构改变前后，其技术效果完全相同，也就是说该权利要求 1 中的上述区别特征并没有产生任何不同于对比文件 1 的更加有益的技术效果。因此权利要求 1 相对于对比文件 1 不具备创造性。

从属权利要求 2-3 所加入的附加技术特征均已被对比文件 1 (参见权利要求 1 及说明附图 1、3、5) 所公开，因此在所引用的权利要求 1 不具备创造性的情况下，权利要求 2-3 也不具备创造性。


另外还要指出的是：该申请的权利要求 1-3 相对于对比文件 2 (US4858602) 来说 (参见对比文件 2 全文)，也不具备创造性，其具体理由与前述分析相类似。

(3) 工业实用性

显然，权利要求 1-3 具备工业实用性，符合专利合作条约 (PCT) 第 33 条第 4 款的规定。

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PCT048120		FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/CN2004/000205	International filing date (day/month/year) 15 March 2004 (15.03.2004)	Priority date (day/month/year) 13 March 2003 (13.03.2003)	
International Patent Classification (IPC) or national classification and IPC IPC⁷ A61B17/72			
Applicant CHIENG, Poonung			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic _____, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 10 October 2004 (10.10.2004)		Date of completion of this report 11 July 2005 (11.07.2005)	
Name and mailing address of the IPEA/CN The State Intellectual Property Office, the P.R.China, 6 Xitucheng Rd., Jimen Bridge, Haidian District, Beijing, China 100088 Facsimile No. 86-10-62019451		Authorized officer  ZHANG, Xiao Telephone No. 86-10-62085812	

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/CN2004/000205

Box No. I Basis of the report

1. With regard to the language, this report is based on:

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rules 12.3(a) and 23.1(b))
- ☐ publication of the international application (Rule 12.4(a))
- ☐ international preliminary examination (Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

- ☒ the international application as originally filed/furnished
- ☐ the description:
- | | | |
|---------|-------|-------------------------------------|
| pages | _____ | as originally filed/furnished |
| pages * | _____ | received by this Authority on _____ |
| pages * | _____ | received by this Authority on _____ |
- ☐ the claims:
- | | | |
|---------|-------|---|
| pages | _____ | as originally filed/furnished |
| pages * | _____ | as amended (together with any statement) under Article 19 |
| pages * | _____ | received by this Authority on _____ |
| pages * | _____ | received by this Authority on _____ |
- ☐ the drawings:
- | | | |
|---------|-------|-------------------------------------|
| pages | _____ | as originally filed/furnished |
| pages * | _____ | received by this Authority on _____ |
| pages * | _____ | received by this Authority on _____ |
- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/CN2004/000205**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement:**

Novelty (N)	Claims 1-3	YES
	Claims	NO
Inventive step (IS)	Claims	YES
	Claims 1-3	NO
Industrial applicability (IA)	Claims 1-3	YES
	Claims	NO

2. Citations and explanations (Rule 70.7)**Novelty:**

Claims 1-3 meet the criteria set out in PCT Article 33(2), because no document cited in the international search report has disclosed all features of the claims 1-3.

Inventive step:

Claims 1-3 don't meet the criteria set out in PCT Article 33(3):

Independent claim 1 does not involve an inventive step. CN2253187Y (D1) also discloses an intramedullary nail (see D1, description, pages 1-3 and figures 1-3). D1 has disclosed most features of claim 1, and the only different feature between the independent claim 1 and D1 is as follows: the rear end (namely the end mounting the said nut) of the mobilizable bar protrudes out of the hollow shank. However the different feature is straightforward design possibilities employed by the skilled person, in accordance with circumstances, without the exercise of inventive skill; moreover the different feature can not bring any helpful technology effect. Therefore, the independent claim 1 does not involve an inventive step, and does not meet the requirement of PCT Art 33(3).

The additional features of dependent claims 2-3 have already been disclosed in D1 (see D1, claim 1, and figures 1,3,5), therefore the dependent claims 2-3 do not involve an inventive step, and do not meet the requirement of PCT Art. 33(3).

Industrial applicability :

Obviously, claims 1-3 meet the requirement of PCT Art.33 (4).